

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DAVID SANCHEZ,)	
)	
Plaintiff,)	CIVIL ACTION NO.:
)	1:21-cv-04815-MLB
)	
v.)	
)	
LVNV FUNDING, LLC,)	
)	
Defendant.)	
_____)	

**DEFENDANT’S REPLY BRIEF IN SUPPORT OF ITS MOTION IN
LIMINE**

COMES NOW LVNV Funding, LLC, (“LVNV” and/or “Defendant”) and files its Reply Brief in Support of its Motion in Limine as follows:

I. Plaintiff Served His Initial Disclosures But Did Not File Them On the Docket.

In its Motion, Defendant argued that Plaintiff failed to serve initial disclosures. In response, Plaintiff attached initial disclosures which were emailed to Michael Chapman and John H. Bedard, Jr., but not the undersigned counsel. When drafting its Motion, the undersigned counsel reviewed the docket and did not see any indication that Plaintiff ever served his initial disclosures and did not find them in the case file. After Plaintiff filed her response, the undersigned counsel was able to locate the emailed disclosures. The undersigned apologizes for making

such a claim and Defendant withdraws any argument regarding lack of service of initial disclosures.

II. Sanchez Admits That The Main Cause of His Emotional Distress Was Mortgage.

In its Motion, LVNV relied on this Court's holding at summary judgment regarding Sanchez's emotional distress damages. The Court held as follows:

But Plaintiff never (1) actually applied for a mortgage or (2) presented any evidence that the "dispute" notation would have caused a mortgage company to deny his application. That was just what he thought. Plaintiff, therefore, has failed to present any evidence Defendant's conduct caused his alleged emotional distress.

Doc. 43. Sanchez tries to argue around this claiming that the reporting of the information itself caused depression and anxiety. However, a review of the entirety of Sanchez makes it clear that any depression or anxiety was caused by his inability to obtain mortgage:

Q: Okay. So your inability to obtain a mortgage: Are you telling me that that's really the main cause or the main drive behind the emotional distress and the anxiety and the depression?

A: Correct.

Doc. 24-1. Sanchez Depo, 100: 20-24. Plaintiff's own testimony confirms that any claim for emotional distress is tied directly to his inability to obtain a mortgage.

As this Court has already held, Plaintiff has failed to come forward with any evidence supporting such a claim for emotional distress damages. Therefore,

Defendant respectfully requests that its Motion be granted and that any reference to emotional distress damages be excluded.¹

CONCLUSION

For the reasons stated in its Motion, LVNV respectfully requests that its Motion in Limine be granted.

Font Certification

Pursuant to Local Rule 7.1D, the undersigned counsel certifies that this brief has been prepared using Times New Roman 14-point font.

Respectfully submitted this 10th day of May 2024.

BEDARD LAW GROUP, P.C.

/s/ Jonathan K. Aust

Jonathan K. Aust

Georgia Bar No. 448584

John H. Bedard, Jr.

Georgia Bar No. 043473

Counsel for Defendant

4855 River Green Parkway
Suite 310
Duluth, Georgia 30096
Telephone: (678) 253-1871
jaust@bedardlawgroup.com
jbedard@bedardlawgroup.com

¹ Plaintiff concedes the issue regarding actual pecuniary damages related to his credit score or mortgage. Doc. 53, pg. 9.

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DAVID SANCHEZ,)	
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Plaintiff,)	CIVIL ACTION NO.:
)	1:21-cv-04815-MLB-JEM
)	
v.)	
)	
LVNV FUNDING, LLC,)	
)	
Defendant.)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed Defendant's Reply Brief in Support of its Motion in Limine using the CM/ECF system and I hereby certify that I have mailed the foregoing to the following non-CM/ECF participants.

Gary Hansz
gary.hansz@crlam.com

Respectfully submitted this 10th day of May 2024.

BEDARD LAW GROUP, P.C.

/s/ Jonathan K. Aust

Jonathan K. Aust

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John H. Bedard Jr.

Georgia Bar No. 043473

Counsel for Defendant